

REMARKS/ARGUMENTS

This Amendment is submitted in response to the Office Action of August 24, 2004, and the discussion at the Personal Interview held on October 27, 2004, between Examiner Foreman, Primary Examiner Winakur, and the inventor, Stephen Nuss, Dr. Jeffrey Chambers, and applicant's representative, Thomas Nikolai. At the outset, applicant's attorney wishes to thank the Examiners for the courtesies extended during the course of the interview.

The Office Action rejected Claims 12-27 under 35 U.S.C. §103 as being unpatentable over U.S. Patent 6,132,389 to Cornish et al. in view of U.S. Patent 4,817,600 to Herms et al. During the course of the interview, a demonstration was provided that showed that applicant's beta titanium alloy guidewire did not yield the "approximate mechanical properties" of guidewires made from stainless steel or nickel titanium alloy in terms of pushability, torqueability and trackability. See col. 3, line 42, of the '389 patent. A device of the type described in the Herms et al. '600 patent was also demonstrated and Dr. Chambers explained that persons skilled in the art reading the Herms et al. patent would not be motivated by that patent to design a guidewire from beta titanium alloy when the properties of a vena cava filter are so vastly different from properties that a guidewire must have.

By the proposed amendment, independent Claims 12 and 20 have been amended to recite additional structure related to guidewires in accordance with the Examiner's suggestion. Specifically, claim 12 now recites, in addition to the titanium molybdenum alloy wire that has titanium-78%, molybdenum-11.5%, zirconium-6% and tin-4.5%, that the wire has a proximal end portion and a distal end portion where the distal end portion is tapered to a lesser diameter than the diameter of the proximal end portion. Effectively, the limitations of earlier Claims 13 and 15 have been imported into independent Claim 12 and, hence, Claims 13 and 15 are cancelled.

In a similar fashion, independent claim 20 has been also amended to recite that the wire has a proximal end portion and a distal end portion where the distal end portion

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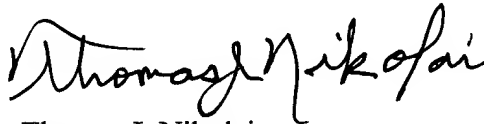
is tapered to a lesser diameter than the diameter of the proximal end portion. Claims 21 and 23 are cancelled.

At the personal interview, the Examiner indicated that such an amendment would appear to render the claims patentable over the cited art, but that further review of the amended claims would be made once entered.

In that all of the claims now remaining in the application are considered to be in condition for allowance, a Notice to that effect is respectfully solicited.

Respectfully submitted,

NIKOLAI & MERSEREAU, P.A.

A handwritten signature in black ink, reading "Thomas J. Nikolai". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

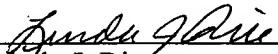
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CERTIFICATE OF MAILING

I hereby certify that the foregoing Amendment in response to the Office Action of August 24, 2004, in application Serial No. 09/760,136, filed on January 12, 2001, of Stephen Nuss entitled "Titanium Molybdenum Alloy Guidewire" is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, postage prepaid, on October 28, 2004.

Date of Signature: October 28, 2004



Linda J. Rice
On Behalf of Thomas J. Nikolai
Attorney for Applicant(s)